REMARKS/ARGUMENTS

Background and Current Status

This Amendment is made in response to the non-final Office Action dated August 14, 2008. The Office Action has been carefully reviewed, and the following remarks herein are considered responsive thereto.

In the Office Action, the Patent Office examined claims 223–291, all other claims from the as-filed application having been restricted out and then subsequently canceled in previous papers. Clarifying amendments have been made to independent claims 223, 251, and 262 to overcome the bases of rejection asserted in the Office Action and to further place the claims in condition for allowance. Further clarifying amendments have also been made to dependent claims 224, 239, 252, 258, 261, 263, and 266, primarily due to the substantive amendments made to the independent claims. Claims 236, 260, and 278-291 have been canceled by this Amendment, but Applicant reserves the right to re-present these claims in this application or one or more continuation applications. Further, new dependent claims 292–295 have been added by this Amendment.

It is submitted that no new matter is presented by this Amendment, as all claim amendments and new claims are properly supported by the application as originally filed. This Amendment is believed to have corrected all deficiencies so that a Notice of Allowance can be promptly issued.

Basis for Allowance of Amended Claims

In the Office Action, claims 223–291 were rejected under 35 U.S.C. § 103(a), as being allegedly unpatentable over *Beck* (U.S. Pat. No. 6,671,273) in view of *Hayes* (U.S. Publ. No. 2004/0215771), and further in view of *Flyntz* (U.S. Pat. No. 7,134,022), *Rezailifar et al.* (U.S. Pat. No. 6,980,658), *Breslow et al.* (U.S. Pat. No. 6,493,342), and *Lin* (U.S. Publ. No. 2004/0233915).

In response to these rejections, and in order to expedite continued examination of the present case and, hopefully, bring this case to final resolution, Applicant hereby

2355370 v02

presents a substantive response and arguments explaining why the independent claims 223, 238, 251, and 262 define over and are not obviated by the art of record.

Amended claim 223 is directed to a method for <u>restricting</u> access to one or more resources within a computer network, comprising the steps of <u>assigning a unique user identifier</u> to each <u>authorized human user</u> of the computer network; <u>retrieving the unique user identifier</u> associated with a respective authorized human user logged into a source node; upon initiation of a TCP/IP communication attempt at the source node, wherein the TCP/IP communication attempt is associated with a request by the respective authorized human user for access to a specific resource within the computer network, wherein the TCP/IP communication attempt includes a synchronization packet having a header, inserting the unique user identifier assigned to the respective authorized human user logged into the source node into the header of the synchronization packet; intercepting the synchronization packet within the computer network <u>without allowing the TCP/IP communication attempt to proceed</u>; extracting the unique user identifier from the header of the synchronization packet; <u>identifying the respective authorized human user</u> logged into the source node based on the extracted unique user identifier; <u>determining whether the respective authorized human user is authorized</u> to access the specific resource; and <u>if</u> the respective authorized human user is authorized to access the specific resource, <u>allowing</u> the TCP/IP communication attempt to proceed and <u>granting</u> the respective authorized human user access to the specific resource at a destination node within the computer network.

For the sake of brevity, the other independent claims will not be repeated herein, but their amendments are similar to those presented in representative claim 223. Applicant has amended and clarified independent claims 223, 251, and 262 to highlight more clearly how and why the present invention is patentably distinguishable from the teachings of *Beck*, *Flyntz*, *Hayes*, and the other cited references, whether taken alone or in combination with any known or cited art.

Specifically, *Beck* is directed to a system or method for reducing overhead operations in a computer network. Particularly, *Beck* describes a routing system that embeds "Host IDs" (i.e. identification numbers associated with processor nodes) into

connection information in packets to track the connection information, which enables a "connection registration database [to] only [be] updated after a large, predetermined number of bytes have been transferred across [the] connection . . ." [*Beck*, col. 3, lines 22–24]. In this way, fewer connections are registered in the connection registration database, leading to fewer overhead operations associated with registering connection information. [*Id.*, col. 2, lines 51–52]. The system described in *Beck* does not, in any way, block, restrict, or authorize access to any resources within the computer network; it is merely a routing or tracking system that reduces communication registrations.

In contrast, the present claims have been amended to clarify that communications and associated access to resources within a computer network are allowed or denied based on unique user identifiers embedded in packet headers. Specifically, claim 223 (for example) has been amended to state that packets are intercepted without allowing the TCP/IP communication attempt to proceed, a determination is made as to whether the user initiating the communication is authorized to do so, and if the respective authorized human user is authorized to access the specific resource, then the communication is allowed to proceed and access to the specific resource is granted. Unlike *Beck*, the present claims describe a system that either prevents or grants access to resources within a network based on a decisional criterium (specifically, a unique user identifier). The system described in *Beck*, on the other hand, merely tracks communication traffic based on processor node identifiers in the packets. No decision is made in *Beck* to block, grant, or otherwise authorize communications—all communications are simply allowed to proceed.

Further, while it has been established by previous prosecution papers that *Beck* does not teach, discuss, suggest, contemplate, or require unique user identifiers (as described in the present claims), the Patent Office asserts that the newly-cited *Flyntz* reference does describe such identifiers, and that it would be obvious to combine *Flyntz* with *Beck* to meet the element in the present claims of assigning unique user identifiers to each authorized human user of a computer network. *Flyntz* describes a network security solution that utilizes "user labels" to determine if a user has access to data in a database based on the user's security clearance. While Applicant acknowledges that *Flyntz* does

generally describe utilizing user information in order to make data access decisions, Applicant submits that suggesting it would be obvious to combine *Flyntz* with *Beck* is merely hindsight bias and impermissible reconstruction, as there is no motivation to combine these references. *Flyntz* is just one of many references that discuss the general concept of using user identifiers for some sort of access purpose, and as described previously, the system discussed in *Beck* has no use for such user information. In fact, because the system described in *Beck* tracks communications based on processor nodes, the system would not work if user labels were substituted for these process node identifiers.

In citing *Flyntz*, the Patent Office makes the conclusory assertion that it would have been obvious at the time of invention "to include user labels in the invention of *Beck* in order to access rights associated with users as taught in *Flyntz*." [Office Action, page 3]. However, the Patent Office has provided no reasoning as to why it would be obvious to combine the user labels of a data labeling system (i.e. *Flyntz*) with a communication routing system (i.e. *Beck*). There is no motivation to combine these references because, as described, the system of *Beck* not only has no use for user identifiers, but it would not function properly if such identifiers were used in place of its described process node identifiers. In the Supreme Court case of *KSR v. Teleflex*, the Court warned that examiners and factfinders "should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning." *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, 82 USPQ2d 1385, 1399 (2007). The Court went on to state that rejections on obviousness "cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.* at 1396 (emphasis added). Here, the Patent Office has made no showing as to why one skilled in the art would combine the systems of *Flyntz* and *Beck*. Accordingly, it is submitted that it is inappropriate to combine the conventional data labeling system of *Flyntz* with the communication tracking system of *Beck* to reject the present claims.

To his knowledge, Applicant is the first to conceive and invent a practical, effective and efficient manner of using and embedding unique user identifiers within

conventional <u>header fields</u> within <u>TCP/IP synchronization packets</u> in such a way that the information could be used, extracted, and acted upon, and all without interfering with a standard TCP/IP communication protocol. The present invention hinges upon use of this critical information, which enables a network to identify the specific user initiating an electronic communication. In rejecting the present claims, the Patent Office has created a piecemeal combination of <u>six</u> different references in order to allegedly meet or teach all claims in the present application. Applicant respectfully submits that it would not have been obvious at the time the invention was made to combine the teachings from these six references to arrive at the present invention(s). Because *Beck*, *Flyntz*, and the other cited references do not teach, discuss, suggest, contemplate, or require the use of unique user identifiers associated with specific authorized human users to make communication authorization decisions, the present inventions are not anticipated or obviated by any of the cited references, when taken alone or in combination, and thus the 35 U.S.C. § 103(a) rejections using these references cannot be supported.

For the above reasons, independent claims 223, 238, 251, and 262 are believed allowable over the references of record. Similarly, since dependent claims 224–235, 237, 239–250, 252–259, 261, 263–277, and 292–295 merely provide additional details and limitations to their respective independent claims, such dependent claims should be allowable for the same reasons as the independent claims.

Applicant submits that no new subject matter has been added by the amendments, and that the above amendments and arguments overcome the Examiner's rejections to the claims. Accordingly, this application is believed to be in condition for allowance, and such action is earnestly solicited.
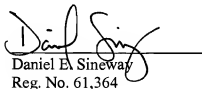
CONCLUSION

It is respectfully submitted that amended independent claims 223, 238, 251, and 262, and all of their respective dependent claims, are not anticipated or rendered obvious by any of the art cited by the Patent Office to date, including *Beck* or *Flyntz*, whether considered alone or in combination with any of the other references cited. Applicant further submits that no new subject matter has been added by the amendments presented herein. For these reasons, Applicant respectfully submits that the present claims define over the references known or cited and, thus, stand in condition for allowance, which action is earnestly solicited. If the Examiner believes that there are any issues that can be resolved by a telephone conference, or that there are any informalities can be corrected by an Examiner's amendment, please call the undersigned at 404-233-7000.

Because Applicant originally paid for 16 independent claims and 222 total claims, it is respectfully submitted that no additional claim fees are due with this Amendment, which has reduced the number of claims in the application to 4 independent claims and 57 total claims. However, if our assessment of fees due is in error, please charge any fees that might be due or credit any overpayment to our Deposit Account No. 50-3537.

Respectfully submitted,
Morris, Manning & Martin, LLP
On behalf of Applicant

November 14, 2008

Daniel E. Sineway
Reg. No. 61,364

Morris, Manning and Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road, N.E.
Atlanta Georgia 30326
404-364-7421 Direct
404-233-7000 Main
Customer No. 24728

2355370 v02